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yellow, and white string, weighted at the ends with *kepengs*. These were passed under the arms and across the backs of the bride and groom, the four ends held by the priest while he recited a prayer. Then the ends of the ropes were crossed over their chests and thrown back. The priest gave the couple a ladle of holy water to drink, and continued praying while the couple fanned towards themselves the essence of the prayer, doing the same again when the priest held in front of them a bundle made of the coloured ropes, which in the meantime had been removed by the attendants. The ceremony concluded with a long prayer (*maweda*) performed by the priest towards *kangin*; a combination of Sanskrit formulas recited silently, accompanied by swift and intricate gestures of the hands, alternated with ringing a bell and flinging away various sorts of flowers. After the purification the banquet was served and the guests spent the rest of the night watching plays and dances.

The woman "follows" the man and lives in his home. Either the eldest or the youngest son inherits the paternal home, but other sons usually build a house of their own on an empty lot given by the village to a newly-wed couple. The first duty of the man is then to build a temporary *sanggah kemulan*, his family shrine, made of bamboo and thatch, which is replaced later on by a more solid structure of brick and wood, when the old one has fallen into decay. It may happen, however, that a man commits *nyebuhin*, going to live in the house of the girl with whom he is infatuated. A man who runs after a girl in this manner is disgraced; he loses all rights to the paternal home and lives as a servant of the girl's family. The opposite may also happen and a *ngungahin* marriage takes place, when a girl, supposedly bewitched, forces herself upon a man.

Ordinarily there is at home a strong feeling of equality, of politeness, and friendly frankness in the relationship between husband and wife, and the woman is by no means the proverbial slave of Oriental countries. She is well aware of her rights, she

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593 manages the house and the finances of the family, and at times
562 she even keeps her husband. We have seen that the majority of the women of average class work and have their own incomes. [422] They own their clothes, their jewellery, and the household utensils, as well as the pigs and chickens of the house. The man, of [428] course, owns the house itself, the ricefields, the cattle, and his implements, and inheritance is invariably along the male line. The woman has absolute rights over her income and owns her share of the money earned by their combined efforts, although the husband is the administrator of this money. In general the [592] man is the acknowledged master of the household and represents the family before the law and before the gods, who are his own ancestors.

841 But once a month, during menstrual time, a wife's life is not a happy one; to her physical handicap is added the powerful taboo of pollution (*sebel*) which then falls upon her: she is forbidden to go into the temple, into the kitchen or the granary, or to the well. She may not prepare food nor, of course, make offerings or participate at feasts, and the wife of a high priest may not even speak to her exalted husband. No man would dream of sleeping in the same room with a woman in this condition; the average man moves into the house of a friend, but the wife of a nobleman has to look for a place to sleep, far from her husband. In the palace of a prince there is often a secluded compartment where his wives retire while menstruating. When the period is over, a woman has to be purified again with sprinkling of holy water before she can resume normal life. Perhaps because the Balinese [754] believe that a man can be bewitched, losing all his will to the woman who can anoint his head with menstrual blood, they have such mortal horror of being near a woman during the time of menstruation.

595 The Balinese are reputedly polygamous, but the great majority
162 – about ninety-five per cent – have only one wife. It was generally believed that there are considerably more women than men in Bali, but the last census (1930) gives the figures as 561,874

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djago and is the garment of magic characters such as Bhima, Twalén, and Merdah.

Although not a part of the weaving art, the gilt cloth (*kamben prada*) used for theatrical performances is also important. This is coloured silk boldly patterned with applications of pure goldleaf (*prada*) glued onto the fabric with Chinese gelatine (*antjur*) by a special process. It is curious that despite the fact that every Balinese wears Javanese batik for everyday dress, there is no evidence of their having adopted this popular process of decorating cloth. I have found strange batiks in a rough hand-woven cotton of a non-Javanese style, but I could never discover proof that they were made in Bali.

The Balinese also excel in the art of working metals, from the simple agricultural implements of iron, the parts of musical instruments, and the accessories of priests (bells, incense-burners, lamps, tripods, and so forth) cast in brass, to the extravagant gold and silver platters (*lelantjang*), water-bottles (*kendíh*), and vases (*sangkú* and *batil*), the knives and scissors for cutting betel-nut (*tjaket*) of wrought iron inlaid in silver, and the rich and elaborate rings, bracelets, ear-plugs, and flowers for the hair in hammered and chiselled gold set with rubies and star sapphires.

But the most important examples of Balinese craftsmanship are their krisses, the famous weapons of important Indonesian men, nowadays worn only as symbols and as ornaments. An inherited kris that has descended in a family for generations becomes not only their most important heirloom, but also the tangible part of the family deity and has come actually to be worshipped as an ancestral god, a *batara kawitan*, in whom the magic strength of the forefathers continues to live. Thus the head of a prominent Balinese family regards his kris as an important appendage and a symbol of himself. Today in the old villages it is compulsory for every man to wear his kris to attend a meeting; the kris must be worn at marriage and for all ceremonial or state occasions. Whoever cannot appear in person, sends his

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764 At home, the bundle containing the remains is placed again on the pavilion reserved for the corpse, now strewn with silks

[428]

Ukur kepeng and ukur selaka

The ukur kepeng is a doll made the size of the corpse and cremated with it. "Ukur" means "the measure" or "to measure out." It represents the skeleton, indicating the proper position of the bones. It is made of blessed white yarn (the nerves) and "black" (old) Chinese coins (the bones).

The ukur selaka is used for the same purpose by the higher castes and prosperous people in conjunction with the ukur kepeng. It is made of silver plaques strung on silver wires, and is not cremated with the corpse, but is used over and over as a family heirloom. A similar figure is sometimes made of gold (ukur mas).

and brocades and ornamented with the family's heirlooms: gold and silver vessels, peacock feathers, jewelled krisses, and so forth.

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The most usual pattern of land ownership is, as a result of the strong 621 423

village organization, or better, village feeling, that of the central compact village divided into individual family house courts with gardens, and beyond the village outlying fields which are also worked by the individual families. The fields are passed down by heredity in the male line but may not be alienated; they may not be bought by a foreigner or even by the member of an adjoining village. When a house court falls empty it is filled by members of the family, and there are almost always sons waiting to get a village site when the old people die off. Only if there is a family line which comes to an end, an exceedingly rare occurrence, do the village site and the portion of the fields worked by the family come up for sale to outsiders. Land so held is called *petjatoe*. Two other types of holding are commonly spoken of, the *tetamian*, "inheritance land," and *labaan*, "temple land." *Tetamian* is the type customarily owned by members of the higher castes; it is generally passed on in the male line, too, but, in contrast to village lands, can be sold or mortgaged. The third sort, *labaan*, is land held in common by members of a temple group for the support of the temple and its priest. Very often these lands do not suffice for the prescribed offerings and the support of the priest (*pemangkoe*), and the deficit has to be made up by the temple members by carefully allotted contributions. [428] [425]

It is commonly said, and the feeling is certainly there, that all the land in Bali belongs to the gods and that a man only is privileged to work the lands during his lifetime, "asking for rice," as the saying is. A new born child is said to have come to "ask for rice," and he is put through the motions of obeisance to the gods, from whose world he is thought of as but recently arrived, in order to obtain their benevolence and goodwill, for himself and his family, in enjoying the fruits of the earth which they graciously allow him. [776] [782]

Religion. Since ancestors are merged with gods, there is no contradiction to the Balinese in the hereditary system of land ownership and the phrasing of it as "belonging to the gods." 769

Indeed the theme of what is known as ancestor worship is the strongest part of the Balinese religion. It is the basis upon which their version of Hinduism rests. Temples are sacred sites, walled enclosures containing many shrines, and the chief of these is to the Original Ancestor and his Consort (*Sanggah Kemoelan*, Shrine of the Beginning, which, the priest will tell you, is equivalent to Siva). In every house court is a family ancestral shrine, a tiny temple walled off from the rest of the house in its own enclosure, the holiest ground. Villages have as a rule three main temples, the Village Temple, the Temple of Death (sacred to the memory of the Dead Kings), and the Temple of Origin. The Temple of Death (*Poera Dalem*) is [778]

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great extent, been forgotten. Only on the symbolic level do they remain true and valid for the culture which practices them; they are the ways through which the underlying ethos of the culture is expressed, through which it lives and continues to perpetuate itself.

Every married pair may constitute a household, a *koeren*, the unit of the village or ward (*bandjar*). Usually, in a household of a number of children, one of the sons remains in the paternal house while the others move out and set up establishments of their own as they come to maturity and marry. The paternal house passes to the son who remains at home; as the old man reaches the age of superannuation it is this son who represents the household at the village meetings and who does the work apportioned by the village, the temple, the irrigation unit (*soebak*), or the higher authority of the district official government. It is characteristic of the Balinese system that it is the youngest son, not the eldest, who remains at home and inherits the father's house.

Age and Sex Typing. The Balinese have their own special view of the distinction between the sexes and of the differences or lack of differences between them at different times in the cycle of life. The most important point is the complementariness of the sexes, male and female together making up an entity, completing each other. Like the Chinese *yin* and *yang*, the theme male and female (*loch moewani*) is endlessly repeated and recurrent in every context from the description of the gods to the terms for a carpenter's joining. But, beside this complementariness, there are areas where the distinction between the sexes seems quite irrelevant, the two sexes are interchangeable. Thus, though it is a patrilineal society, and a man must have a son to carry on his ancestral line, if he has no son, a daughter will do. The daughter then substitutes for the son. Various sorts of priestly functions may be carried out by women as well as by men; diviners, healers of one sort or another, godly spokesmen, all these are as likely to be male as female—the women have no monopoly here over hysterical manifestations. Little child dancers may be boys, or girls, or boys dressed as girls, or girls dressed as boys. There is a happy indeterminacy in all of these roles. In the very young, and in the very old, the difference in sex is of no consequence.

Only for purposes of mating is it felt necessary to keep the two sexes distinct. During the years of young courtship there is rather more emphasis on the difference between male and female. There are divisions of labor, between men's work and women's work, which serve to emphasize the difference as the skills are being acquired, but, once a young man and a young girl are married, they form a unit, a "household" (*koeren*) in which either one may act for the pair. They are like partners, of whom either one can

7: Belo E-5 (1931-1935) 1936 OF7 Ball OF7

the eldest son, at the paternal house with his wife and children, to succeed the old man at his death. But this does not always happen, and as we shall see in other cases, it is more usually the older brothers who move out one by one and set up new households, leaving the youngest boy to succeed and take over the paternal house. (Daughters do not inherit property.) It may be that the desire for independence, when newly married, prompts the elder brother to depart, leaving his right of succession to the youngest.

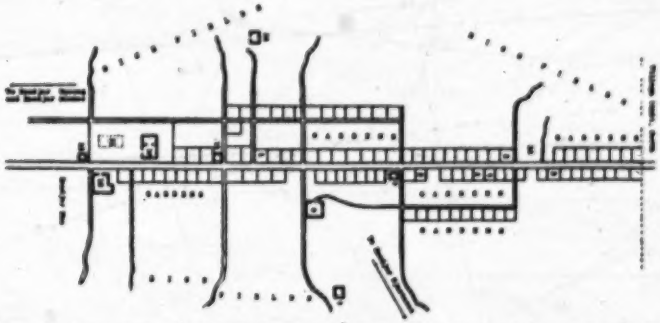

FIG. 3. Map of Bandjar Koetoeh, Village of Sajan. 1, House of the great-grandfather, Gentoeh-Njadet-Keroenā; 2, House of Géwar-Klepoeg-Gari; 3, House of Bedil-Dariā; 4, House of Boedal-Rendah; 5, House of Mertā; 6, House of Soewakā; 7, Balé Bandjar of Koetoeh, meeting house of the men; 8, Poerā Dalem, temple of the dead; 9, Poerā Panataran, temple; 10, Poerā Désā and Poerā Poeseh, village temple and temple of origin (common to the five bandjars); 11, Peken, village market place; 12, Poeri, "palace" of the Tjokordā; 13, Balé Bandjar of Bandjar Mas; 14, Poerā Nagasari, temple; 15, Poerā Panti, temple; 16, Semā, village graveyard and cremation place.

They say also that the youngest son has had, at the time of his father's death, less time to set himself up, and is therefore less able to fend for himself, than the others who have been married several years. Whatever the reasons, the rule is that the eldest or the youngest, not the intermediate son, inherits the paternal house. (See exception, pp. 23–24.)

The sixth child was another boy, who died in childhood. The seventh, Njoman Dog, another boy, who, although married for several years, has remained in the paternal house. He and his wife Rawi are now a part of Rendah's household. In Balinese this is called ngerob, "to share a kitchen." They say it is because Rendah is not strong, and Dog helps with the cultivation of Rendah's ricefields in return for sharing in the house. Rendah seems to have complete authority over Dog, and orders him about as his

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159 The father of Rendah was called Boedal. He was one of five sons who
602 were, in order of birth, Bedil, Boedal, Klepoeg, Krèbèk, and Siboh (fig. 2, I).
[567] All five served during their adolescence as parakans, temporary slaves or attendants, to the local Tjokordā, a Satrya prince. In return the prince made them grants of land when they married. He was a prince famous for his generosity. "One was ashamed to ask anything of him, for he gave so much."

The father of these five was called Géwar. No one remembers the name of Géwar's father, nor of his elder brother, who figures in this study (fig. 2, I). All that we know about the old man, who was Géwar's father and Rendah's great-grandfather, is that he lived in a house next to the old "palace" (now disappeared) of the Tjokordā in Bandjar Koetoeh, the same bandjar which Rendah and his cousins still inhabit. Géwar was born in this house, but he did not inherit it. After his marriage, to Raras, also of Bandjar Koetoeh, he lived in the house marked 2 on the plan (fig. 3). Possibly this was a grant of the Tjokordā. In those days the region all about the village of Sajan was wilderness, covered with forest. When families grew and the young men wished to set up for themselves, they had to clear the ground for their housecourts and ricefields, level the land into terraces, and extend the canal system to bring water to their fields. This tremendous task must have been carried out by groups. It is known that the parent village of Sajan was Peliatan, a village at a distance of five or six miles, and that in the time of Rendah's grandfather and great-grandfather offshoots of many Peliatan families, the overflow from a district already fully populated, pushed out to form the new settlement of Sajan.

159 The five sons of Géwar, then, were born in House 2. The eldest, Bedil,
591 moved out from this house, and built House 3 at the time of or shortly after his marriage. He had five children, the three eldest, girls, the two youngest, boys (fig. 2, II). They are Rendah's paternal parallel first cousins. It is to the son of one of these cousins, Gari, that Rendah has married his eldest daughter.

591 The eldest daughter of Bedil, Méweh, became the second wife of a man
608 called Soewakā, who was a sentanā to his first wife. A sentanā is a young
428 man, generally a younger son, who marries the daughter of a man without sons. He then becomes the successor of his father-in-law, lives in the house of the bride's parents, makes offerings at the household shrine of her ancestors, and foregoes his own family. He inherits from his father-in-law house and land, and his children continue the line not of his parents, but of their maternal grandfather. In this case the man is said to "follow the woman," and becomes a member of her family, just as in the usual marriage

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the girl gives up her own family and her ancestor gods for those of her husband.

Soewakā was the son of a man whose elder brother had no male child, but a daughter. Soewakā married as a sentanā this daughter, Metoe, who was his paternal parallel first cousin. Her father was then to him father-in-law, uncle, and adopted father (fig. 1, III).[4] Soewakā lived in the house of his father-in-law and later inherited it. Soewakā had only one child by Metoe, a daughter. He then took a second wife, who was Méweh (eldest daughter of Bedil and paternal parallel cousin of Rendah), and had by her five children, two of whom have married back into the family which concerns us here (fig. 2, IV).

It is customary, and considered more suitable, for a man who takes a second wife to provide her with a house of her own, so that the two wives, at least during the early years, will not have to live in too close proximity.[5] Soewakā built for Méweh what is called a koeboe, an informal sort of house, set out in the ricefields, not within the circumscribed limits of the village. Here Méweh still lives, although her children are grown up and married. With her are her second son, Tèmplok, with his wife and two

[4] A Balinese states the custom for choosing a sentanā: "Take the family nearest on the male side, and if there is none [no son], only then can he be taken from the female side" (Ida Bagoes Hadipta, in an article on ancient adat in Bhāwanāgara, Nos. 4–5, 1933, p. 73).

[5] Household and dependents of Soewakā:

"Town house"
- Soewakā
- Metoe — his first wife
- Popol — youngest son of Soewakā by his second wife
- Te'er — wife of Popol
- child of Popol and Te'er
- Sampring — mother of Metoe

Koeboe No 1
- Méweh — second wife of Soewakā
- Tèmplok — son of Soewakā and Méweh
- Kébek — wife of Tèmplok
- 2 children of Tèmplok and Kébek
- Poepoel — son of Soewakā and Méweh

Koeboe No. 2
- Loe'ed — daughter of Soewakā by Metoe (first wife)
- Gemoeh — husband of Loe'ed
- 6 children of Gemoeh and Loe'ed.

The total is twenty people, eleven adults and nine children, living in the three houses, but receiving their share of the common rice supply, kept in the "town house." Soewakā, and all the young men of the three households, work the ricefields which he inherited from Metoe's father.

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child of the line of Gongang, Soewakā's own father, or of the line of Mentik, father of Metoe, who became Soewakā's social and religious father when Soewakā married Metoe as a sentanā. It is impossible for a Balinese to state definitely to which line Sembrod belongs, as she calls both Mentik and Gongang pekak, grandfather, just as she calls all her uncles bapā, father. Even Rendah, who is her mother's cousin, she calls bapā. That is why the matter of inheritance is significant in tracing the emphasis of kinship, for it is only after the fact of succession to property that one can be sure where the emphasis lies. In this particular family, of Metoe-Soewakā-Méweh, complicated by the sentanā marriage on one side and the ordinary marriage on the other, we shall have to await Soewakā's death to see what transpires. One can only note probabilities from the present distribution of the family in the three houses, the "town house," and the two koeboes in the fields (cf. fn. 5 and fig. 2, IV). Metoe's only daughter Loe'ed did not marry a sentanā, as might have been expected, although her husband is a poor man. They do not live in the town house, but in a koeboe of their own on Soewakā's land. There is no chance of their inheriting the town house, since succession does not go through daughters. Probably they will inherit a tenantry right to a portion of the ricefields. Méweh's eldest son, Keroenā, married as a sentanā into the family of Njadet, and therefore has no further claim on his own family, but will inherit from Njadet. He is already pengajā, member of the village council, for that household, because Njadet has become too deaf to fulfill his functions. Méweh's second son, Tèmplok, lives with his mother in her koeboe, and he is pengajā for that household. Poepoel, the third son, also lives there. Probably either Tèmplok or Poepoel will inherit that house, perhaps share it. In any case they have no chance for the town house, as they are intermediate sons. The daughter Sembrod is now a member of her husband's family and can expect nothing from her father's estate. This leaves Popol, Méweh's youngest son, who would seem to be the logical heir to the town house. As we should expect, we find him living there with his father and his co-mother Metoe, ready to take over the rights on the death of his father.

Let us go back now two generations to the family of Géwar, where we find another curious case of inheritance, not conjecture this time, but accomplished fact (fig. 2, I). It will be remembered that Géwar had five sons who served as parakans of the local prince. He lived in the house marked 2 on the map. His eldest son, Bedil, after his marriage, lived in house 3, and the second son, Boedal, in house 4 (which is now Rendah's). It was the third son, Klepoeg, who inherited the paternal house, No. 2.

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It came about in this way: the Tjokordā, prince of the district, was waging war on the region to the south of Sajan. He was victorious, and the inhabitants fled, leaving the country deserted. Krèbèk, the fourth son of Géwar, was sent away by the Tjokordā to Bandjar Toenon, in the conquered district, as a settler. He was given a grant of land, and therefore did not succeed to any of his father's lands in Sajan.

The fifth son, Siboh, who might have been expected to inherit the paternal house, was married as a sentanā, and moved away to the house of his father-in-law in Bandjar Mas, thereby forfeiting his claim. And so it was that the third son, Klepoeg, was the only one left to inherit the house of Géwar. His two elder brothers already had houses of their own, and his two younger brothers had departed from the bandjar before their father's death.

Now Klepoeg had the house, and he took two wives, but he had no children. This was an important matter not only to him, but to the entire family. For although each pekarangan must contain its individual household temple, the sanggah of the paternal house is larger, and all the children and grandchildren feel a responsibility for keeping up this parent-temple, whence their own house-temples spring. Surely the spirit of the forefathers is more powerful there! And so an heir must be found for Klepoeg, who has inherited the house of Géwar and become guardian of his sanggah. The eldest brother, Bedil, who has already three daughters, hands over to Klepoeg his first-born son, at the age of three months. This child, who is Gari, still lives in the house of Géwar. He has inherited his grandfather's house, not as the child of the eldest son, but as the adopted child of the youngest son who remained at home.

The house in which Bedil lived has passed on to his younger son Darià, who lives there now with his wife and four children (House 3).

It is difficult to trace the inheritance of property other than the dwelling house. For the ricefields are loaned, mortgaged, paid for in labor, or held by a system of tenantry with a sharing of the crops, all arrangements made between individuals, rarely with a written agreement. Within the family land is loosely held, and a man will speak of as his all property belonging to himself and his brothers, even of his cousins. Princes claim as theirs land which may have been given as a grant by their father or grandfather in return for services already rendered, or else let out on a crop-sharing basis, or even land originally owned by the commoner, but which the prince has planted with lines of his own coconut trees between the fields. The Balinese have an extraordinary memory for their relative indebtedness to every individual of their acquaintance, and the balance of favors given and

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received swings back and forth through the generations. But all the same, when quarrels arise, the present government has difficulty in settling the ownership of property to which one man may hold the deed,[6] whereas another has been farming it and paying the taxes on it for ten or fifteen years.

In the case of Rendah and his two surviving brothers, the ricefields of their father are supposed to have been divided between them. Rendah, as the eldest, claims to have got a larger share than Mertă and Dog. Now Mertă maintains a separate household, whereas Dog lives in the house of Rendah, and has no child (except the daughter of Rendah whom he has adopted). Rendah says that two-thirds of the land belongs to him, but that as the land is all lumped together, and worked chiefly by Mertă and Dog, they divide the crops between the two households, that of Mertă and that of Rendah, which includes Dog. Rendah's household consists of six adults and five children, Mertă's of two adults and seven children. "If he has not got enough rice, I give it to him, whereas if I am lacking, he gives to me," says Rendah. Hence we assume that the division of the crop is done on a friendly basis according to necessity, and if Rendah's household should diminish through the death of the old mother and sister, or the marriage of his daughters, and Mertă's increase with the birth of more children, the ratio could be proportionately altered. But it is hard to tell, when Rendah says he owns two-thirds of the land, whether this is really all his, or whether he is counting with his own Dog's share, since Dog is in the position of a dependent in his household. In this case it is of no particular importance, as Dog has no son to inherit from him.

It will be noted that of the eleven marriages recorded in Rendah's generation, only two were polygynous. Njadet married Dartă, and having no children by her, took his paternal parallel second cousin Njambléh, who gave him one daughter. When she grew up, a sentană marriage was arranged with her cousin Keroenă, who is related to her both on her mother's and on her father's side (fig. 1, II). In the son of this marriage, Njadet has at last got his heir to carry on the line. The other marriage of two wives was when Soewakă, who, as sentană husband to Metoe, had only a daughter, wedded his second cousin Méweh as a second wife, and by her got four sons.

In the preceding generation Klepoeg and Krèbèk had each two wives.

[6] The deed, called pipil, is in writing, engraved upon a leaf of the tal palm. It is tucked away in a safe place, and forgotten. In the case of land which I rented, the search for the pipil lasted six weeks. It was finally discovered in a roof-bamboo of the house of the paternal second-cousin of the "owner."

9:Geertz E-5 (1957-1958) 1959 OF7 Bali OF7

broad and not altogether consistent way corresponds to the gentry-peasantry distinction common to nonindustrial civilizations generally. Each group is then subdivided further in terms of the title system, the actual basis of the individual's rank in the society. Given a sample list of titles —*Ida Bagus, Tjokorda, Dewa, Ngakan, Bagus, I Gusti, Gusti, Gusi, Djero, Gde* — any but the most uninformed Balinese could tell you they were placed in a generally descending order of status, but only a small minority of theorists could tell you that the first was a Brahmana title, the next four Satria, the next three Vesia, and the last two Sudra.[8] In making status distinctions a man thinks and talks in terms of titles, not in terms of caste.

In general, a man may marry anyone of the same title or lower, a woman anyone of the same title or higher—thus hypergamy. In pre-Dutch times (i.e., before 1906, for South Bali only came under direct Dutch control at the beginning of this century) miscaste marriages were punished by exile or —particularly in the case of a Triwangsa girl and a Sudra man —death. Even today a girl marrying down is commonly "thrown away" by her family, in the sense that she is no longer recognized as kin and all social intercourse between her and her parents ceases. Under modern conditions such breaches often heal after some years have passed, particularly if the mismatch is not too great; but miscaste marriages are in any case very rare even today.

As the number of Triwangsa is so much less than the number of Sudra, status regulation of marriage means that the patterns of affinal connection tend to work out rather differently for the two groups, in that most Triwangsa marriages are hamlet exogamous, i.e., interlocal, while most Sudra marriages are hamlet endogamous, i.e., intralocal. This contrast lifts the horizontally linked Triwangsa up as a supra-hamlet all-Bali group over the highly localized Sudra; a pattern congruent, of course, with the fact that the Triwangsa almost completely monopolized the interlocal, superordinate political and religious roles of the traditional Balinese state structure, as they do today of the Balinese branch of the Indonesian civil service.

The caste (or title) composition of any given hamlet (or temple group, or irrigation society) varies very widely. In one locality one may find representatives of a wide range of titles in a smooth gradient from the highest to the lowest, in another only very high and very low ones, in a third only middle range or only very high ones, in a fourth nothing but Sudra, and so on. And, as caste is a crucial factor in both political and kinship organization, such differences entail important differences in social structure. Prestige stratification in Bali is a powerful integrative force both on the local and on the island-wide levels.

5. *Consanguineal and affinal kinship ties.* Descent and inheritance are patrilineal in Bali, residence is virilocal, but kinship terminology is classic Hawaiian—i.e., wholly bilateral and generational. The major exception to patri-descent and residence is that a man who has no sons may marry a daughter uxorilocally and designate her as his heir; her husband abandons his rights

9:Geertz E-5 (1957-1958)1959 OF7 Bali OF7

591 611 in his own patriline, as a woman does at marriage in the normal case, and moves to his wife's home to live. As this almost always occurs in cases where 428 male heirs are lacking, Balinese genealogies show a noticeable ambilineal element, in that a certain percentage of the ties are traced through women rather than men.

592 The basic residential unit is the *pekarangan* or walled house compound, which in kinship terms may house groups which range from a simple nuclear family up to a three or more generation extended patri-family. Typically two or three nuclear families, often with various unattached or aged patri-relatives, occupy a single pekarangan, but occasionally compounds with as many as ten or fifteen families, related through a common paternal grandfather may be found, particularly among the upper caste groups. In addition to being a residential unit, the compound is a very important religious unit, for each com- [346] pound group supports a small temple in the northeast corner of the yard dedi- [769] cated to its direct ancestors at which twice yearly ceremonials must be given. Finally, the compound is usually divided into kitchens, called *kuren*, typically one nuclear family to a kitchen, but sometimes two or three, and it is this kitchen group which is the basic kin unit from the point of view of all superordinate social institutions: it is the kuren which is taxed for the Kahyangan-Tiga temples, which is allotted a seat in the meeting house, which must send a worker to repair the dam or participate in the harvest, which is the rice-field owning unit, and so on.

614 621 Above the compound and the kitchen one commonly finds, within any given hamlet, from one to ten or so (largely but not entirely) endogamous corporate kin groups called *dadia*.[9] Such dadia are basically ritual units, but they may also act as collective work groups for various social and economic tasks, may provide the main framework for informal social intercourse outside the immediate family for its members, may serve as an undivided unit in the local stratification hierarchy, and may form a well-integrated faction within the general hamlet political system. The degree to which it takes on these general social functions differs rather widely from village to village. In some villages dadia organization is the central focus of social life, the axis around which it revolves; in others it is of relatively secondary importance; and in a few villages, especially semi-urbanized ones, dadia may not exist at all.

Rarely is the whole hamlet population organized into dadia, and sometimes only a definite minority will be. This is so because of the manner in which dadia are formed. When a family line begins to grow in size, wealth, and local political power, it begins to feel, as a consequence of what is probably the central [181] Balinese social value, status pride, a necessity for a more intensified public expression of what it takes to be its increased importance within the hamlet. At this point the various households which compose the line will join together under a chief elected from among them to build themselves a larger ancestral temple. This temple will usually be built on public, hamlet-owned land, rather than within the confines of one of the houseyards, thus symbolizing the fact

[104 cont.]

634 For his exertions on behalf of the soebak, the klian some-
312 times receives a double portion of irrigation water, and, as tax
[651 collector, he receives a part of the income from taxes.
465]

At the head of a number of soebak in one or more dèsa is the sedahan temboekoe, who stands above the various klian and supervises the distribution of the water. At the same time, he looks after the taxes for the prince. Above all of them is the head of the whole water supply, the sedahan agoeng, who holds regular monthly meetings with the several sedahan temboekoe. In 1882, when (in Buleleng) direct governmental administration was introduced, the sedahan temboekoe received a monthly salary of 130 guilders and the title of subcollector.

611 Family Law. On Bali and the Balinese portion of Lombok
[614] (western Lombok) one can speak of a patriarchal family system,
but there is no longer any trace of clan divisions. There is
564 another dividing line, however, that of the caste system. The
greatest cleavage is that between the members of the three high-
est castes, the triwangsa, descendants of overlords, on the one
hand, and the soedra, the subjects, on the other. It is a rule
[582] that a man may not marry a woman of higher caste; he may,
however, marry a woman of lower caste. One may thus in part
speak here of true endogamy, the prohibition against marrying
outside of one's group, in this case outside of one's class or caste.
Otherwise the marriage and inheritance laws have more in com-
583 mon with those of patriarchal exogamy: the custom of bride
611 price, descent reckoned in the male line (for determining caste
423 membership, only that of the man is considered), inheritance
rights only for the male relatives in the male line, while the
[587] woman is, in theory, part of the inheritance, although this has
not led to levirate marriage.

Formerly, in the case of a death without heirs, the inheri-
tance, after debts and the cost of cremation had been deducted,
went to the dèsa association, later to the prince. This led [105]
833 to very sad consequences; the wives and daughters moved to the
●428 royal residence and were simply sent out as prostitutes to increase

B [105 cont.]
833 the income of the prince. With the disappearance of royal rule
423 on Bali and Lombok, this evil, the so-called mandjing system,
[177 came to an end.
643]

B Divorce is possible on Bali, either by unilateral repudia-
586 tion on the part of the man or by mutual agreement. The di-
692 vorce decree can also be promulgated by the native court, the
council of Kerta.

B A special feature of Balinese marriage is that the bride
583 price, which is usually very large, is actually paid only in exceptional cases; this form of marriage is called mepadik. More commonly the girl is abducted; this abduction, which takes place with the prior knowledge of the girl and her parents, is called merangkat and serves as an escape from all the formalities and
B heavy payments involved in a bride price marriage. A sacri-
[639 ficial repast is sufficient atonement for the offense against the
671] adat and to avert any possible evil consequences. If the father is recalcitrant, it appears that bride price has to be paid, but in this case it is a smaller one. A bride price four times as high as the normal one has to be paid after a melegandang, an
[681] abduction against the will of the girl. Apart from that, the young man must flee with the girl to another village and stay there in hiding for a time. Formerly, the members of the girl's family were even allowed to kill the young man if they caught him within a certain period of time.

J e. Java. We are now approaching Java, the island where,
101 for many reasons, native society is most highly developed (seen,
174 that is, from our Western point of view), and therefore the only
J jurisdictional communities, except for the independent, native as-
621 sociations, the dèsa, are territorial units. The household [gezin,
J household or nuclear family] is of great importance, as it is every-
592 where, but it is not a jurisdictional community, nor is the family
596 [familie], the larger group of relatives. Indeed, in contrast with the situation in so many areas of the Outer Provinces, the family has
J little significance among the Javanese. Of much greater im-
621 portance for [106] the Javanese is the dèsa, the native community

[382 cont.]

643 from the Satriya [Kshatriya] caste. All the sovereigns on Bali,
564 however, are from the Wesja [Vaisya] class, with the exception of the ruler of Kloengkoeng. The sovereign of that state is supposed to be a pure Satriya. He bears the title of Dewa agung. The rulers of the other states bear the title of Anak agung. The sovereign of Kloengkoeng exercises a kind of supremacy over the others, not only because of his high birth, but also on the strength of his ancestors' conquests over the other states. This
[641] supremacy is very slight, however. Although the princes swear an oath of loyalty and allegiance to him, consult him on important occasions, and call him in as arbiter of their differences, they obey him only insofar as it suits their interests.

Otherwise, the authority of the sovereigns on Bali is fairly
643 autocratic. Indeed, although the sovereign has a council of
645 priests and notables, members of the royal family, who, depend-
642 ing on their [383] caste, bear the title of dewa or gusti, they are entirely dependent on his will. Next to the sovereign stands the mantja magara, or state administrator, in whom the actual government is vested. The sovereign has still other officials who fulfill various functions.

634 A state is divided into a number of districts. At the head of the districts stand governors, the punggawa or pambekel gĕdé. They are chosen by the people, but under the approval of
622 the sovereign, who often influences the choice. The villages
621 are governed by village chiefs, who bear the name of klijan dèsa.
624 They are chosen by the people, and this choice is approved by the punggawa and the sovereign. There are often lesser chiefs in a village, section chiefs, klijan bandjar.

642 As I have just noted, the sovereign has an autocratic authority. The subjects are outrageously oppressed and regarded as slaves by their sovereigns, who are faithfully imitated in this
651 by the lesser chiefs. The sovereigns have many sources of dif-
[681] ferent kinds of income. They formerly consisted of the fines that were imposed as punishment; the sale of wrongdoers
● [428] sentenced to slavery; the estates of those who died without

B [383 cont.]
651 leaving sons, as well as the widows and daughters who belonged
428 to the estate, who were sold as slaves or hired out as servants; an annual land tax (padjăg) levied on rice fields; the proceeds from the crown lands, in large part sawahs, which were worked by the people for two-thirds of the proceeds; duties on the importation and exportation of products; harbor dues; the proceeds
B 636 from salvage rights or wreckage (actually nothing but beachcombing), tawan karau. This is forbidden by the treaty of 1849, which likewise generally restricted the sovereigns' arbitrariness to some extent.

L Lombok. The true inhabitants of Lombok are called
101 Sasak. Besides the Sasak, there are many Balinese on this island,
175 especially in the west. They are the actual rulers. The course
648 of this Balinese domination is briefly as follows. Formerly the
636 Sasak were the only inhabitants of the island, which was divided [384] into various, independent small states, each having its own sovereign and often at war with one another. About a century ago, the sovereign of one of these small states, the one of Praja, hard pressed by his neighbors, called for the help of the sovereign of Karangassem on Bali. He came to Lombok with an army and subjugated not only the enemies of Praja, but this state, too, and thus became the founder of a Balinese state on Lombok. The power of the Balinese on Lombok soon expanded, and there gradually arose four Balinese states. In 1824, there was some
L discord between these four states, ending in the subjugation of
636 all of them by the sovereign of Mataram. Since then he has been the absolute monarch of all of Lombok by right of conquest. The government is about the same as the government on Bali, and
L here, too, the sovereign's authority is quite absolute. The title
643 of the sovereign is anak-agung. As we have seen, the sovereign of Kloengkoeng on Bali exercises some supremacy over the other Balinese states. The sovereign of Mataram on Lombok also recog-
L nizes this supremacy. The country is divided into a number of
634 districts, which are all governed by Balinese notables with the title of Radja.

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Ambon OH4 Java OE1
Bali OF7 BP
89 J
5

Then, too, the right of disposal over cultivated land does not al- 425
ways operate in the same manner. In some law-areas (e.g., South 184
Tapanuli, Ambon, Bali and Java) it is possible to note three levels 626
of operation in some villages. First, the community right is strong- 428
est with regard to lands without an owner, which have reverted to 423
the village and then been reissued by the village to a new proprietor. That person's legal status for the time being permits no dealings in the land and is weak in resistance to village interference in his title; as, for instance, when it is desired to recapture the land for non-performance of communal services. Second, the right of disposal is also strong with respect to those lands which are original holdings of the villagers. So long as a male descendant holds the land of his family ancestors, he has a firm hold as a member of an original lineage within the village group. However, the village interest is on the alert against any change in the legal possession of those original lands. It admits of no alienation, no division among heirs, no combination with other fields. If a native villager dies without heirs the village appoints a new person to use those particular fields or orchards. This new proprietor will acquire a position similar to that of persons who have held such fields from of old. But that takes a good long time. Third, there may be fields or orchards in addition to those issued by the village. These are individually owned, and the community interest is weak; the proprietors may pawn or sell such lands; their reversion to the village is exceptional, and village interference with these lands is rare. In Java such lands are called "sawah jasa" (in contrast with the "sawah pekulen or gogolan"); on Ambon, "dusun pusaka" (in contrast with the "dati"). AM [423]

It is this variegated action of the village rights that is sometimes, and erroneously, called "mixed possession."

Residential land is occasionally handled differently under the communal right of disposal of a village than is cultivated land. Villages interfere more readily to create living space than they do to make workable fields available.

5. *The dual area of disposal.*—The dual area of disposal is encountered in two different ways. In the first and more exceptional instance, an inland village will possess its actual residential and food-producing area; and, in addition, it may hold a distant maritime area from which it derives its indispensible sea products and salt. The more common dual form, however, is that which occurs when a given area falls within the disposal powers of both a local village and the regional community in which that village lies. As a I 423 621

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
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Ngadju OC9
Ambon OH4

CHAPTER V

OBLIGATIONS

A. RIGHTS IN HOUSES, CROPS, CATTLE AND MATERIAL GOODS

IN THE MATTER of land rights the community takes precedence over individuals, whereas with respect to the subject matter of this chapter, an individual right of possession takes precedence over community rights, except in unusual situations. In some Dyak tribes, such as the Maanjan-siung, "pusaka" goods may not be inherited by members who have taken up residence outside of the tribal territory, nor may it be taken along when a member removes to alien ground. In the village republic of Tnganan Pagringsingan, in Bali, it appears that all possessions of villagers (cattle, chickens, household goods, etc.) are subject to a village priority. And in many other villages of Bali, the community may demand cattle and all sorts of objects without offering indemnity.

The native right of possession to houses and crops is separate in principle from the rights to the land on which the house or crops stand. A person can be the native possessor of trees and houses on another man's compound. Individuals, who plant trees on the land belonging as a common estate to a group of which they are but members, become the native possessors of those trees. This is frequently done in Ambon. The special native terminology covering the right to have a house on the residential compound of someone else, when the compound is already occupied by the owner (and subject to termination at will by the owner), has already been noted. (See p. 113, note 8.) "Numpang," in native usage, means that the person to whom it applies has nothing to do with the land itself, even though he may have a house on it. It means that fruit trees may be sold or pledged independently of the land on which they stand.

However, this basic distinction between land rights and house and crop rights is subject to some limitations.

In the first place, when transferring a residential compound, houses and trees on the compound usually go with it. They are consequently the subject of a "jual" transaction. But alongside of

12: Haar S-4 (1939) 1948 OBl Indonesia OBl
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persons as receivers of care, it is especially married couples without children, who bind young people to them as caretakers in this manner. The result is that the arrangement performs the same function that adoption does elsewhere, hence it is called "mengaku anak." Under the laws of relationship a child, who enters an old-age care contract, does not break his customary relation to his own parents. Nor does the receiver of the care inherit property from the caretaker, if the latter dies first.

Very similar to the Minahasan contract is the "makehidang raga" of Bali, by which a person surrenders himself with all he has and holds to another person. The one to whom the other person surrenders has to provide for burial and cremation and to look after the surviving relatives. For this, he gets a claim to inheritance in the other's properties. Indications that similar arrangements exist elsewhere are found in the report that in Ambon testimentary bequests occur in favor of the person who has cared for the testator up to the time of his death.

E. FRAUD ON CREDITORS

To what extent property continues subject to conversion for the debts of the owner, even after it has been transferred to third parties is a matter that must always be determined according to the unwritten law of the native population. The obligation to respect the interests of the other fellow with whom a legal deed has been made, the obligation of good faith, places the solution beyond the range of doubt, in many instances. Attempts to defraud creditors by fictive transactions fall outside of this area. They can be nullified as fictive transactions. But fraud sustained by creditors in consequence of partitions, the distribution of ordinary marriage property, gifts—all acts which could have been left undone, but which having been done, prevent the creditor from obtaining his due—makes these acts invalid in the decisions of Government courts. Nor is legal recognition accorded to transactions by which property is sold or pledged under such circumstances that the other party must in reason understand that creditors are being defrauded by that transaction. The fact that it was generally known that a demand was pending against the seller, the fact of close relationship between the buyer and the seller, and other such facts have repeatedly been accepted as the basis of the decision that the creditor's right of recovery had not been lost by the legal transaction. If, however, the third party in the transaction was in good faith on

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Java OE1 Bali OF7
Redjang-Lampong OD12

The children of secondary wives are inferior in status to the children of the principal wife, especially as regards inheritance and their relation to the status of their father.

Incest prohibitions forbid marriages between father and daughter and mother and son.

Another legal aspect of the parent-child relation is the mutual duty of maintenance and care. However, the claims of the unilateral family group can, in particular instances, set aside the duties and claims of the father or mother. (See page 186 for a more detailed discussion.)

If the father is at hand, he must always act as the representative (wali) of his daughter, in accordance with Islamic law. Between parents and children, inheritance *ab intestato* depends more on the regulations regarding blood kin than on the filial patterns.

Final dissolution of the parent-child relation, such as a father disowning his son, is legally possible in several areas. It is called "mangaliplip" in Angkola and "pegat mapianaq" in Bali.

Children can always be turned over to foster parents for maintenance. This is an act, which while sometimes difficult to distinguish externally from adoption, is an entirely different thing. Adoption means relinquishing the child, but a fostered child can be reclaimed at any time by the parents upon reimbursement for the cost of maintenance.

B. CHILD AND KIN GROUP RELATIONS

There has been little investigation into the question as to whether illegitimate children have the same relations with their kinsmen as do legitimate children in those locales where unmarried mothers and their children are still subject to social disabilities. In Rejang they are not, and the illegitimate child is outside the kin group. But in Java there is apparently no difference in the kinship status of legitimate and illegitimate children. Wherever the father must assume responsibility for his illegitimate offspring, the child's relationship to the father's kin is regularized.

The variability of kinship systems (the social evaluation of the biological family relationships) has already been reported on in Chapter I. Only a few points need to be stated or repeated here.

In some law-areas there is no difference between the relative positions of the father's family or the mother's kin group with respect to the child. This is the parental or bilateral relationship system.

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Minangkabau OD10 Redjang-Lampung OD12
Gorontolo OG4 Java OE1
Gayo-Alas OD7 Bali OF7
Celebes OG1

in the frontier region between the Minangkabau and Mandailing. It does not occur at all in Angkola.

The second form of adoption is the "nyentanayang" of Bali. This is adoption from within the great traditional clan of relatives (purusa). However, in recent times adoption from outside this group is growing in frequency. In some villages members of the wife's family may be adopted. If the head wife has no children, but a secondary wife does, then her children are made children of the first wife by adoption. If there are no male relatives available for adoption, a girl may be chosen. The legal act of adoption requires first that a thread be burned in two, so as to separate the child from its own family. The second step is the adat payment of one thousand kepeng to its mother. The man who is doing the adopting acts in concordance with his family group; it is announced in the desa; and permission must be obtained from the officials of the prince, who draw up a legal document. The child itself gets presents. Here again, the child is fully cut off from its former parents, even in inheritance, and is a full member of its new family group.

The motive for this form of adoption is also the fear of dying childless and so suffering the extinction of the line of descent. A widow may also adopt a child for her deceased husband.

As a third variety, there is the adoption of nephews and nieces, which occurs in Celebes, Java, and other places. Among the Gayo, the Pasemah and the Pepadon groups, in the Lampongs, it takes place alongside of the adoption of non-relatives. However, it is distinguished from this last form by name and in the omission of payments for the children.

The adoption of nephews is, in a broad sense, to be compared with the transfer of family land by partition, as a shift within the family group as such. Usually, there is no question of payments. Nevertheless, a practice in East Java, which gave adoption the character of a cash transaction, still seems to exist in the payment of a magical token of "rong wang sagobang" (seventeen and one-half cents) to the real parents, as a means of breaking their magic tie to the child. Among the Minahasans a tangible token, called "parade" (not lilikur, it seems) is given to the child in confirmation of the adoption.[5] The predominant purpose is, as usual, to get a descendant to carry on a person's line. But this is

[5] Concerning the old age care contract, which the Minahasans call "adoption," the reader should refer back to p. 138. [cat. 116 -- Analyst]

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Land Dyak OC8
Bali OF7
Borneo OC1

woman, who does not belong to the "marga" in the Lontung group from which he is supposed to take his wife, the "marga" adopts the desired woman for this purpose. The adoption of girls occurs among the Semendoëans, or among the Langak Dyaks and Tajan Dyaks of Borneo in order to have a daughter who can administer the nuclear property (see p. 197); this gives her a place above the sons in the family.

In Bali and the Great East, a father adopts a man, who then marries his foster-father's daughter. This is closest to adoption marriage without adoption. It is usually unmarried children who are adopted. Adoption is usually done by married persons, who are old enough to be the parents of the foster child, but in Bali, adoption by unmarried persons occasionally takes place.

In principle, annulment of an adoption is possible in all situations, which permit the expulsion of a child. (See p. 154.) It can also be done in Bali for a number of other reasons leading to dissatisfaction. It is possible, too, in Borneo, but only on payment of high damages.

We should also make note of the fact that in Bali only a son can receive the estate of his father and continue his position as head of a family. If there are no sons, a boy can be adopted, either by the man, in anticipation of death, or by his widow, after the event. But instead of doing this, the father may raise a daughter to the position of "sentana," or succeeding heir. This confers the rights and duties of an eldest son on her. Such a girl can marry only in accordance with the adoptive marriage form, and her husband is then called "sentana tarakan."

Finally, there is the legal act by which a father obtains the transfer of one or two of his children from their mother's clan (to which they belong because of adoptive marriage) to his own. This transfer results because a traditionally fixed payment was made at the time of the marriage or in consequence of a later payment. It is in effect a cash transaction.

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Ngadju OC9 Minangkabau OD10 Java OE1
188 Ambon OH4 Redjang-Lampong OD12 Bali OF7
ADAT LAW IN INDONESIA Borneo OC1

inheritance or partition remains in the native possession of that spouse from whose family the property originated. Such property is called "pimbit" (Ngaju Dyak), "sisila" (Macasser), "babaktan" (Bali), "asal," "asli," "pusaka" (Java, Malay), or "gana," "gawan" (Java). In case of divorce the possessions accordingly remain with the marriage partner possessing them, and after the death of the native possessor, property does not pass outside the kin group; especially, it does not pass by inheritance to the other spouse, and perhaps for that reason, in Java it does not pass to adopted children, either. People say that this is in order that the property shall not get lost. Among the Minangkabau, kin group property can never be assigned by partition, and it cannot pass by inheritance to an individual member of the extended family group. As to this matter, the small family, or the branch of the family group, stands out but feebly, in consequence of the right of utilization of the extended family possessions.[34] But nearly everywhere else, the separateness of kin group property, which has been made family property, is sharper. Possessions, which are given to the marrying woman as wedding outfit, sometimes (among the Pasemah, for example) remain her possessions, even in a patrilineal system, and pass by inheritance to her children; and in the event of her dying childless they pass to her husband. Although, in case of divorce, the wife takes them back with her to her own family group. Lands, which were given to the woman as a bridal present among the Bataks, pass to her husband (and to her) in native possession, although every disposal embracing them requires consultation with the wife's extended family. If there are children, then they are the natural successors in the following generation to the possessions inherited through the parents or received by way of partition. (See pp. 195, 204.) Children are the focus where the differentiated family property of the parents joins as property of one kind (namely as "barang asal"). Among the Dyaks, the concept of "pusaka" comprises in addition to inherited possessions those objects (of a magical nature) which one obtains, for example, as marriage payment or as booty, and which are predestined to be transferred as inheritance to the heirs. In contrast with "pusaka" in the general sense of "sacred possession," are the possessions acquired by individual labor, by no means "holy" for the obtainer, which the Ngaju Dyaks lump

[34] The "ganggam bauntuiq" of the "harta pusaka" (see, pp. 97 and 126), similar to the family right to "pusaka" goods in Ambon.

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Java OE1 Ngadju OC9
Bali OF7

organization, however, the mother, who brings up the children and who is capable of supporting the children, may be made responsible for doing so, in addition to the father.[1] If, in case of conflict, decisions have to be made, the interests of the child are the most important factor.

The influence of guilt on the determination of property disposition has been mentioned above, and the consequences of divorce with respect to the property will be repeatedly mentioned in the treatment of the law of marital property.

C. MARITAL PROPERTY

The families that come into being by marriage require a material foundation. The husband and wife (with their children) must carry on life jointly as a family unit, and for that purpose they must have goods at their disposal. Where the kinship unit has great social significance as a community, family property is distinguished from the kin group property. Sometimes the boundaries are weak and evanescent; sometimes distinct and clearly visible. Where the kin groups do not occur as organized units, the families with their possessions are the delimited nuclei of the communities, but nevertheless the close kin group relationship extends over the families and exerts an influence on the legal status of the family property. Counter to the kin groups as communities, the family emancipates itself; it lives in a daily equilibrium with these larger groups, but also in a certain tension. In more advanced relationships it is in process of wresting itself free, or has wrested itself free, from the closed character of the organized kinship group. Vice versa, the claim of the kin group as an unorganized group of relatives asserts itself again and again. By the law of matrimonial property the family possessions are kept in their place between the two poles of unequal strength, the kin group and the family.

Generally speaking, a fourfold distinction can be made with respect to family property: (a) property that is given to or has accrued to one of the spouses from his or her kin group as a result of partition or inheritance; (b) property acquired by each of the marriage partners for himself, before or during the marriage; (c) property acquired in common by the marriage partners during the marriage; (d) property presented jointly to the couple at the time of marriage.

1. *Inherited property.*—It is a generally valid principle of Indonesian adat law that property obtained from one's own family by

[1] [I.e., in cases of divorce—Analyst]

12: Haar S-4 (1939) 1948 OB1 Indonesia OB1
Java OE1 Gorontalo OG4 Bali OF7
Redjang Lampong OD12 Batak OD5
Ambon CH4
Minangkabau OD10
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(although in this connection the property which has been given to the daughters must not be left out of consideration). In Minangkabau, it is only half true; namely, only with respect to the mother. Inheritance from the father goes to his sister's children and not to those of his wife. In the Lampongs it is only half true, insofar as there only the oldest child inherits, although he has the duty of treating the family of the father as his own family. The rule that after the death of the native possessor the estate remains undivided under certain circumstances brings about a different situation in the Minahasa than among the Minangkabau, and in Bali and Java.

The rules of inheritance are subject to not only the influence of social changes, growth of the family tie, with concomitant decrease of the clan and tribal tie, but also to the influence of rules of inheritance of foreign legal systems, which as a result of certain external connections with religion are provided with an authority derived from religion, and are, for example, applied to concrete instances by religious judges. However, this influence is noticeable to a far less degree in case of the law of inheritance than in the law of marriage. Whether permanent resistance is offered to it, or whether radical action can proceed from it, depends upon the power of the formal law of inheritance.

We shall discuss in the following order the continuance of the undivided estate, then the legal acts which accomplish or influence distribution, then the parties entitled to inherit *ab intestato*, and finally, the inheritance of particular constituents of the estate and debts. The placing of property in the grave, which according to belief was too personally connected with the deceased to be capable of being possessed without danger by other persons, must be regarded as a custom that has disappeared or is disappearing.

A. THE UNDIVIDED ESTATE

The indivisibility of an estate is in some law-areas dependent upon the impossibility of owning property received from the fathers and mothers other than jointly with the other kinsmen. The extended possessions, the "harta pusaka," of the Minangkabau and the extended family lands (dati) on the Hitu Peninsula of Ambon may serve as examples. Every child that is born is a participant in the complex of persons which possesses extended family property, arable fields, residential compounds with house and cattle, krisses and precious objects. The death of the individual man or woman leaves the complex undisturbed.

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Possessions which a man has acquired as his own during his lifetime (harta pencharian) may pass as an indivisible unit at his death to his descendants, who are entitled to them and who during his lifetime already stood in relation to the possessions as "waris." (See p. 189.) If, for example, among the Minangkabau a woman dies in personal possession of a field, then that field becomes the indivisible group possession of her children: "harta pusaka" in the first generation. In a like manner, "harta pencharian" of a man become the "harta pusaka" of his brothers and sisters and the descendants of the sisters in the female line. Thus subdivisions are formed in the "harta pusaka." There are the oldest possessions[1] going back many generations and originating from the ancestral mothers, who co-operated in the establishment of the "nagari." And there are the most recent possessions originating from a deceased man or woman of the previous generation. Between these are the complexes originating from ancestors of several generations back. All this becomes simpler in practice than it appears, as a result of the dying-out of groups and the consequent fusion of family units. If an extended family becomes too large, then it splits up, and there is a split in the indivisible property (gadang manjimpang). Where, as on the Hitu Peninsula of Ambon, such indivisible extended family property (dati) is in the hands of a patrilineal subclan, the children of the man and the descendants of the sons are the continuers thereof. The characteristic feature of this first type of undivided estate is, accordingly, the impossibility of division and the fact that the group is jointly entitled to it, mostly under the guidance of an exterded family chief, the "mamaq kepala waris," (Minangkabau), or the "kepala dati" (Hitu). If the family dies out and its possessions become ownerless (guntung in Minangkabau, linnyap in Ambon), they may pass to related extended families or, if such are lacking, to the community.

Another type of undivided estate is the right of inheritance by a single child, either the oldest son (as among some of the Lampong peoples and still to some extent in Bali), or the oldest daughter, and if there are no daughters, the youngest son, among the Semendoëans of South Sumatra and among the Landak and Tayan Dyaks of West Borneo. In case of the death of the father, the oldest son slips into his place. He becomes the native possessor of the property, but he has at the same time the obligation of supporting his brothers

[1] The "harta pusaka tinggi" under the control of the head of the largest family group unit, the "pengulu andiko."

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and sisters. He must also give them away in marriage. On Bali, he must leave a portion of the property for a household shrine. Brothers, who do not wish to remain at home with the oldest brother in this way, emigrate with their families. In the Lampongs, whole "marga" appear to have been populated in this manner. But the paternal estate remains an undistributed unit from generation to generation in the possession of the "penyimbang," the eldest son of the eldest son. If there is no eldest son, and no provision for a substitute has been made, then that branch dies out, and the estate passes to the closest related branch. The possibility that younger children may demand the capitalizing of their right of maintenance, may lead to a claim to a division of the estate and to the desuetude of the seniority inheritance right. In Bali it seems that this process is making headway. The special position of the oldest daughter[2] among the Semendoëans, and of the oldest daughter (anaq pangkalan) among the Landak and Tayan Dyaks, has the effect of holding together the principal constituents of the estate as an indivisible unit made up of one agricultural field, one residential compound, one buffalo and one coconut tree. This unit remains both the place of departure and the place of refuge for all the children. Similarly privileged is the inheritance position of the youngest son among some of the Batak peoples. The one who stays at home the longest gets that part of the estate which was undivided in the hands of the testator. His obligations toward unmarried sisters, which he shares with the older brothers, are in proportion to his privileged position.

The well-known undivided extended family estates of the Minahasa (barang kalakeran) differ from the Minangkabauan extended family property in that distribution of the undivided estate is possible and permissible, provided all parties entitled to it give consent. If individually acquired property (pasini), such as a new planting on land belonging to the extended family, is not divided, but passes on as the joint property of a group of descendants, who are but a fraction of the family group that owns the land, it creates subdivisions of the extended family just as it does among the Minangkabau. But in the Minahasan situation the effect is far more complicated, because of endogamous marriage. This is the cause of the confusion in land rights in the Minahasa, which was to be eliminated by making legally valid distribution of estates possible without complete unanimity of the family group members, who

[2] Tunggu tubang (under the supervision of the eldest son, the payung jurai).

sidered as a sort of settlement. The bride-price paid to the wife's family, although it is a transfer of family property on behalf of one of the children, is, nevertheless, not associated with settlement, according to adat law.

The reversion of property to the grantor in the event of the death of a childless grantee is not a particular rule, but a mere application of the rules of succession concerning "asal" goods.

2. *Last wills.*—The native possessor can exert influence in still another way during his lifetime and, as a result, bring about the division of his estate. In the first place, he can do it by means of a transaction, the object of which is to cause a certain part of his property to fall to one of the heirs at the instant of his death. On one occasion or another in the presence of the "waris," he names the field or house and land that is destined for a certain child, who is designated by name. In case the testator does not revoke this bequest, the legatee has a claim to that portion of the property of the estate, at least insofar as the condition of the estate, in view of payment of debts and a disinheritance injunction permits it. In localities where this transaction is known it seems to be indicated by the Islamic term, "hibah wasiyat."

Another much more general last will, universally known and practiced in the Archipelago, is the itemization of the property and the making known of his wishes by the testator on his deathbed, or at least shortly before his death. In Java, such a disposition is called "wekas" ("weling" in high Javanese); it is called "umanat" in Minangkabau; while in other places it is given other names. The purpose of this is partly to have a binding record of the nature of the parts of the estate to be passed on (inherited goods, acquired goods, goods obtained during marriage, etc.), and partly to impose the distribution judged equitable by the testator upon the heirs and to prevent disagreement about the estate. The "umanat" is also subject to the rules concerning the payment of debts, disinheritance, etc.

The expression of the last will of the testator in a testament seems to have arisen in the most prosperous communities of most law-areas. Where the testament is a novel institution, it gains entrance into the law by legal confirmation in a form which already exists within the system; it has its connecting link in the "hibah wasiyat" and the "umanat." It has been specifically forbidden to make a last will in only a few cases such as in the strongly communal society of Tnganan Pagringsingan in Bali. The intervention of a

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notary in drawing up a testament may remain quite irrelevant in adat law, and for legal security it may be desired only in case the notary is well grounded in the adat.

C. DISTRIBUTION OF THE ESTATE (INTESTATE SUCCESSION)

If the testator, during his life, has not disposed of all his property by settlement, and if there is a surplus after payment of debts, then the estate can either remain undivided, as mentioned above, or be distributed at a particular time. The distribution is a procedure of the joint "waris," ordinarily not controlled by strict rules or definite desires, but often taking place in a spirit of good-will, helpfulness and in favor of the least prosperous members. By this procedure the individual rights of the various "waris" are established; and as far as is necessary with respect to the rights in land, the folk chiefs are informed of these decisions, in the event they were not present at the division of the estate. In Java, their presence is exceptional.

If one or several of the heirs wish to divide, and the others refuse to cooperate, in case the heirs cannot come to an agreement, a legal controversy arises, requiring a decision by either a village judge or an official judge. If there are no reasons upon which one can legally object to a division, then persons can be forced to accept the division of the property. Unhappily, the manner of legal intervention by government judges in the division of estates is one of the most unsatisfactory parts of procedural law. In cases of persistent obstinacy, there is forced public sale after judgment. This practice calls for reform.

D. HEIRS

It is already clear from what has been said that, generally speaking, the near relatives of the following generation, those who grew up in the house of the testator, are the heirs; children come first. However, as has been already remarked, the household relationship is broken in some law-areas by the ties of the unilateral group. In extended families, which are sub-clans, there is a noticeable tension on this point, between the claims of the immediate family and those of extended family. When changing social conditions lead to the establishment of colonies elsewhere, and thus increase independent familial life and the desuetude of the expensive extended family houses, with an increase of the number of small household dwellings, then the legal ties which are based on household relationships

become stronger than those which are based on extended family ties (p. 191). The children's right to inherit *ab intestato* the household goods as a whole arises through the practice of settlement.

The right of the children to inherit from both parents is a feature of the parental relationship both in the bilateral tribal organization (Dyak and Toraja) as well as that which results from the splitting up of larger relationship groups into families, as in Java.

In case of unilateral relationships, as was remarked above, there are two obstacles to the children inheriting from both parents. In the first place, children do not inherit from the parent, who remains a member of the family complex to which the children do not belong. For example: in Minangkabau where the children belong to the sub-clan of the mother, while the father has no part therein but remains attached to his own relationship group, the child's intestate right of succession to the goods of the father is excluded. The practice of settlement corrects this exclusion, while shifting of the social circumstances can partly or entirely annul it. Where daughters inherit the goods of their mother, and sons those of their father, as on Savu, the impediment can also be overcome by settlements. For example, the father can use his "pusaka" goods, which his daughter can never have the right to inherit, to settle (haru kaballa) a garden upon her and her female descendants.

Secondly, an entirely different obstacle to inheritance from their parents by children in unilateral relationship systems flows from the form of marriage consummated. As a result of strict bride-purchase, the bride, and in certain forms of adoptive marriage, the groom is cut loose from his community of relatives. This is the case among the Pepadon groups in the Lampongs. Among the Toba-Bataks, the daughter always withdraws from her father's family at marriage, with the result that she has no claim as a rightful heir in intestate succession—no more, for instance, than a married daughter has a claim to a part of her father's estate in Bali. The practice of settlement before, at, or after her marriage, corrects this exclusion. Even among the Toba-Bataks, although the daughter is not entitled to succession, she can ask for certain portions of the estate, on offering a feast with due attention to the prescribed forms of adat etiquette, and the sons or other relatives inheriting cannot refuse the request if it is at all reasonable.

In the group of children legally entitled to inherit, there is a differentiation in various law-areas which is tied up with the undis-

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428 594 562 L [428 594 562] tributed portion of the parent's estate in the form of native possession by the oldest son (among some Bataks, Lampongs, Pasemah, and in Bali); by the oldest daughter (Semendo, Landak and Tayan Dyak); by the youngest son (some Bataks, elsewhere in Bali), by the oldest and youngest son, *etc.* (p. 197). A differentiation in patrilineal areas between boys and girls in the sense that sons have the right to twice as much of the estate as daughters does not seem to be of native origin; the "sapikul sagendong" (the two against one) as a native standard of distribution refers only to the proportion in the communal marital property, although it appears to have infiltrated here and there occasionally into local rules of succession, as a false popular analogy and supported by the laws of Islam (p. 193).

I [611] The point of view that the wealth of the household is destined from the very beginning for the material basis of living of those who are born to the couple is confirmed in the adat law rule of substitute succession. Children of deceased children get the share of their parents from their grandparent's estate. Only religious justice sometimes breaks into this scheme.

Bl I 428 429 562 596 The position of the widow with respect to the estate in the adat law point of view is that the wife as a stranger has no right to inherit, but as a spouse is joint owner of the goods acquired during marriage, with the limitations described above (p. 193). Moreover, everywhere (except where matrilineal organization makes it unnecessary) she has a claim to life-long support from the estate. In Bali, during the period before the son is legally recognized as successor (in the rituals by the corpse of his father) she administrates the estates. As a matter of fact, she often has this right in other locales. Consequently, the wife does not receive the inherited goods of the husband as heiress, but if necessary is entitled to receive an income from this property or may receive a share from it in one payment as property with which to support herself. If, in a patrilineal system, she is taken into the man's family, she remains with them and is supported, sometimes getting a part of the estate for herself (Bali). If she allows herself to be separated from the man's family, however, she never receives any goods from him. With a single exception, the husband does not inherit from his wife. In patrilineal regions, such as Pasemah, the trousseau which a woman brings with her in a bride-price marriage and which she retains at divorce, goes to her husband on her death, just as in Bali the wife's share of marital property, both that earned by the wife her-

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self, or personal possessions brought by her into marriage, fall to the husband.

Where there is common marital property, if there are no children, one spouse gets the whole estate at the death of the other. On the death of the second spouse, one half of this is left to the relatives on one side, half to the relatives on the other, or two-thirds to the relatives of the husband, and one-third to the relatives of the wife (sapikul sagendong). This division can also be arranged before the death of the second spouse and can, perhaps, in the case of remarriage, or in other cases, be bargained for earlier. It often happens in bilateral areas that even if there are children the claim of the widow for support and for her share of the goods acquired during marriage is recognized by settling upon her a more or less equal share in lieu of assurance of support of a wife by settlement during the life of her husband.

It is occasionally reported (South Celebes or Middle Java) that in addition to the common marital property, a widow's or widower's portion is recognized; probably due to the influence of Islamic law. This must be treated as a separate institution.

Insofar as the adoption caused the status of "stranger" to disappear and that of "child" to be created, the adopted child is legally entitled to succeed as a child. However, it may happen, on the contrary, that the adopted child remains a "stranger" to the families of the adopting parents, which means that the child does not receive the "asal" goods of the husband or the wife to which their own families have kept a certain claim, but he does receive the goods earned during their marriage (p. 161). In the Pasemah, the right of the adopted child to inherit is talked over with the members of the "dusun." In Java, when nephews are adopted they remain the legal heirs of their own parents, for instance, whereas in other places, such as South Sumatra, all right of succession to the actual parents and family is broken by the adoption. The adoption as a cash transaction always creates full rights of succession. The transfer of goods to the adopted child (keeping up the single line in the process of the succession of generations) is often the motive for taking the child. The disturbing influences of those judges, whose decisions are based on Islamic law, were and are nullified by settlements.

The succession to property in the absence of children is simple aside from the claims of the remaining spouse and the adopted child. The property goes back one step up the family tree of the

when the testator has no children; his "barang asal" then goes back to his own extended family—lest it "get away"—while the household goods are taken by the surviving spouse. It has already been said that in some law-areas a strong family bond can also influence the inheritance of goods, which were acquired by the household (p. 190). Among the Toba-Bataks, lands which have been given as dowry to the daughter remain at the death of the woman with the husband and his family, it is true, but in such a way that for generations, the in-laws (boru) may not use it without consulting the wife's family (hula hula) and giving them a right of preference.

2. *Property of special value.*—The sacred objects in a family can be tied up with the status of the possessor; for example, the "kraton" goods of the "kasepuhan" in Cheribon go to whoever inherits the dignity of Sultan Sepuh. In the same way, a name can only be bequeathed to a qualified heir. It can also be said that the heir of that family property becomes the legal administrator.

3. *Household goods.*—Differences in inheritance as a result of household ties may arise when a second marriage occurs. The children of the first marriage inherit the goods acquired during that marriage; the children of the second marriage receive none of them (Borneo). In Muna in South Celebes it is said in this connection, that the property of the one house may not be taken over by the other; in other places in this law-area, there is an adat law maxim to the same effect. In Java, the practice of settlement is ordinarily used to overcome the difficulties of multiple marriage in similar cases. For instance, in case the children by a first marriage are already married and thus form no part of the household of the second marriage, at the death of their father, they do not inherit the goods acquired during the second marriage, at least not if they have already had their share of the household goods of the first marriage. However, they hold a claim to the "asal" goods of their father. If two wives of the same husband form separate households with their children, then the goods of the two households remain separate (p. 177). The more involved the relationships are in a particular case, the more the most acceptable solution has to be found for an arrangement; such solutions, however, are satisfactory only if based on accepted tradition rules.

4. *Communal property.*—The community's right of disposal sometimes prevents succession to agricultural lands by its internal action because at the death of a first class villager his landholdings

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(at least his regular holdings attached to the nuclear village) revert to the community by reason of the right of disposal, and are granted to a village member of lower rank, who is next in turn. If such land is in general given to an heir of the deceased, then there is an inheritance claim to succession to first class villager property. This rule runs counter to the operation of the right of disposal within the community whereby individual rights to fields are allowed only to a specified extent. That is to say (in some Javanese and some Balinese desas), the unit of private lands of the testator may not be added to a unit of ground-holding which is already in the possession of the heir, or on the other hand, it is equally impossible to split the plot of the testator in smaller units among the heirs. Prohibition of accumulation and of splitting up of the standard unit permitted by force of the right of disposal is thus the norm within which the internal operation of right of disposal finds expression. Numerous vague relationships can be created in this way as a result of the apparent support, for one reason or another, of the rule mentioned, while privately permitting all sorts of evasions of it. For example, the heir, who already has a first-class villager's field allows it to be entered in the name of his wife or his oldest son, and himself receives the field of his deceased father; or two brothers permit their father's field to stand in the name of the oldest, but act during their whole lives as if each had a right to half of it; the village authorities cooperate by entering the field in the name of the oldest son "c.s." (cum suis). This Latin phrase has come into use in many desas, but in the form of "séès."

The effect of the right of disposal outside the community conflicts with the law of succession in that it often prevents the inheritance of a nuclear village field by an heir not living in the village. Here also are transitional conditions: putting up a proxy for desa services, entering the land in the name of a member of the extended family, etc. In case of dispute, the decision must bring out the true facts of such a half-way condition.

5. *Designated property.*—The effect of the actual declaration of the parts of the property in the division of the estate does not take the form of a prohibition or a command, but of a preferred choice of method of division. It is unfortunate that the mechanical procedure in case of the unwillingness of one or more heirs to accept the expressed desires of the testator prevents the government judge from carrying out the provisions in that the whole estate is then sold

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publicly and the money divided, which is a destructive rather than a constructive intervention (p. 204).

6. *Debts.*—Finally, the obligations, which exist and arise at the death of the testator are also parts of the estate, even if negative ones.

The surpluses which are available in the estate of the deceased must be first used for the care of the corpse and burial. An heir who sells a positive part of the estate on his own responsibility for that purpose is acting lawfully. The costs of burial are given preference. This rule is valid in all places. Then the costs of feasts for the dead, sacred feasts, cremations or whatever ceremony it is customary to offer for the deceased are met from the estate. However, the expenses for these feasts do not precede the payment of the testator's debts; these expenses are thus not preferential debts of the estate but can be taken care of from the balance of the estate: surplus minus debts, *before* the division of the estate. Sacred feasts are also sometimes paid for by the heirs, with or without later settling with the estate. In Celebes it is said that whoever pays part of the burial costs and the feast for the dead becomes, in this way, a co-heir.

A decision must be made on the question as to whether the debts of the testator are inherited by the heirs. In the first place, in more than one law-area, the rule which is the point of departure in this question is, without restriction, that the heirs are responsible for the debts of the testator (Toba-Batak, Dyak, Bali). However, this is somewhat ameliorated by the obligation of the creditors (on penalty of losing their rights) to claim the debt from the heirs within forty days after the death, or to announce it before the sacred feast (the nyekoh in Bali) for the deceased has been held. There is also the situation that when there is special reason for clemency toward the heirs the full sum is not to be demanded. It is not reported how the relationship between the heirs is to be settled in case of disagreement in this matter.

Another principle—narrower than that just mentioned, but apparently more general—is that only the undivided estate of the testator is to be applied to the payment of debts made by him. This view has given occasion to the formulation of a maxim in adat law that only the balance of the estate is heritable. The point of time in this case is not the date of death of the testator but that of the division of the estate. The division (thus succession) does not occur before all the debts are paid. This order of events may